

ORDINANCE NO. 95-41

1 AN ORDINANCE OF THE BOARD OF COUNTY
2 COMMISSIONERS OF PALM BEACH COUNTY,
3 FLORIDA, PROVIDING FOR DEFINITIONS;
4 PROVIDING FOR COUNTY TAX EXEMPTIONS FOR
5 HISTORIC PROPERTIES; ESTABLISHING
6 REQUIREMENTS AND PROCEDURES; PROVIDING
7 FOR REPEAL OF LAWS IN CONFLICT; PROVIDING
8 FOR SEVERABILITY; PROVIDING FOR INCLUSION
9 IN THE CODE OF LAWS AND ORDINANCES;
10 PROVIDING FOR AN EFFECTIVE DATE.

11 WHEREAS, the citizens of Florida have amended the
12 Florida Constitution to authorize counties and municipalities
13 to allow certain tax exemptions for historic properties,
14 Florida Constitution Article VII, Section 3(e), Fla. Const.;
15 and

16 WHEREAS, the Florida Legislature has enacted Section
17 196.1997 and 196.1998 Florida Statutes (1993) to govern the
18 allowance of such exemptions; and

19 WHEREAS, the Florida Department of State has
20 promulgated rules implementing the above referenced statute in
21 Chapter 1A-38, FAC; and

22 WHEREAS, the Board of County Commissioners has
23 determined it is in the public interest to provide tax
24 exemptions to encourage and promote rehabilitation and
25 renovation of historic properties.

26 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF
27 COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as
28 follows:

29 Section 1. DEFINITIONS The following words and
30 phrases, when used in this ordinance, shall have the following
31 meanings, except where the context clearly indicates a
32 different meaning:

33 (1) "Certified Local Government" (CLG) means local
34 historic preservation office approved by the Division of
35 Historical Resources of the Department of State as a certified
36 local government.

1 (2) "Contributing property" means a building, site,
2 structure, or object which adds to the historical
3 architectural qualities, historic associations, or
4 archaeological values for which a district is significant
5 because:

6 (a) it was present during the period of
7 significance of the district, and possesses historic integrity
8 reflecting its character at that time;

9 (b) is capable of yielding important
10 information about the period; or

11 (c) it independently meets the National
12 Register of Historic Places criteria for evaluation set forth
13 in 36 CFR Part 60.4, incorporated by reference.

14 (3) "Historic property" means a building, site,
15 structure, or object which is:

16 (a) individually listed in the National
17 Register of Historic Places;

18 (b) a contributing property in a National
19 Register listed historic district;

20 (c) designated as a historic property or
21 landmark under the provisions of a local historic preservation
22 ordinance; or

23 (d) a contributing property in a historic
24 district designated under the provisions of a local historic
25 preservation ordinance.

26 (4) "Improvements" means changes in the condition
27 of real property brought about by the expenditure of labor or
28 money for the restoration, renovation or rehabilitation of
29 such property. Improvements include additions and accessory
30 structures (i.e., a garage) necessary for efficient
31 contemporary use.

32 (5) "National Register of Historic Places" means
33 the list of historic properties significant in American
34 history, architecture, archeology, engineering and culture,
35 maintained by the Secretary of the Interior, as established by
36 the National Historic Preservation Act of 1966 (Public Law 89-

665; 80 STAT. 915; 16 U.S.C. 470), as amended.

(6) "Noncontributing property" means a building, site, structure, or object which does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant because:

(a) it was not present during the period of significance of the district;

(b) due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period; or

(c) it does not independently meet the National Register of Historic Places criteria for evaluation.

(7) "Renovation" or "rehabilitation". For historic properties or portions thereof which are of historical or architectural significance, "renovation" or "rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, cultural and archaeological values. For historic properties or portions thereof which are of archaeological significance or are severely deteriorated, "renovation" or "rehabilitation" means the act or process of applying measures designed to sustain and protect the existing form and integrity of a property, or reestablish the stability of an unsafe or deteriorated property while maintaining the essential form of the property as it presently exists.

(8) "Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(9) "Useable space" means that portion of the space

1 within a building which is available for assignment or rental
2 to an occupant, including every type of space available for
3 use of the occupant.

4 Section 2. TAX EXEMPTIONS FOR HISTORIC PROPERTIES

5 (a) Scope of Tax Exemptions. A method is hereby
6 created for the Board of County Commissioners, at its
7 discretion, to allow tax exemptions for the restoration,
8 renovation or rehabilitation of historic properties. The
9 exemption shall apply to 100 percent of the assessed value of
10 all improvements to historic properties which result from
11 restoration, renovation, or rehabilitation of such properties.
12 The exemption applies only to improvements to real property
13 and does not apply to personal property. The exemption
14 applies only to taxes levied by Palm Beach County. The
15 exemption does not apply to taxes levied for the payment of
16 bonds or to taxes authorized by a vote of the electors
17 pursuant to section 9(b) or section 12, Article VII of the
18 Florida Constitution.

19 (b) Duration of Tax Exemptions. Any exemption
20 granted pursuant to this ordinance to a particular property
21 shall remain in effect for 10 years regardless of any change
22 in the authority of the County to grant such exemptions or any
23 changes in ownership of the property. In order to retain an
24 exemption, however, the historic character of the property,
25 and improvements which qualified the property for an
26 exemption, must be maintained over the period for which the
27 exemption is granted.

28 (c) Eligible Properties and Improvements.

29 (1) Property is qualified for an exemption
30 under this section if:

31 (A) At the time the exemption is granted,
32 the property:

33 1. Is individually listed in the
34 National Register of Historic Places pursuant to the National
35 Historic Preservation Act of 1966, as amended; or

36 2. Is a contributing property

1 within a National Register listed district; or

2 3. Is designated as a historic
3 property, or as a contributing property to a historic
4 district, by a certified local government; and

5 (B) The Historic Resources Review Board
6 (HRRB) or the Certified Local Government (CLG) of a
7 municipality that has entered into an interlocal agreement
8 pursuant to this ordinance has certified to the Board of
9 County Commissioners that the property for which an exemption
10 is requested satisfies Paragraph A.

11 (2) In order for an improvement to a historic
12 property to qualify the property for an exemption, the
13 improvement must:

14 (A) Be consistent with the United States
15 Secretary of the Interior's Standards for Rehabilitation; and

16 (B) Be determined by the HRRB or
17 municipal CLG to meet criteria established in rules adopted by
18 the Department of State.

19 (d) Application. Any person, firm or corporation
20 that desires an ad valorem tax exemption for the improvement
21 of a historic property must file with the Planning, Zoning and
22 Building Department a written application on a form approved
23 by the Department of State. A fee for the application shall
24 be established by the Board of County Commissioners in the
25 Planning, Zoning and Building Department fee schedule. All
26 applicable fees shall be paid at the time the application is
27 submitted.

28 The application must include the following
29 information:

30 (1) The name of the property owner and the
31 location of the historic property.

32 (2) A description of the improvements to real
33 property for which an exemption is requested and the date of
34 commencement of construction of such improvements.

35 (3) Proof, to the satisfaction of the HRRB,
36 that the property that is to be rehabilitated or renovated is

1 a historic property under this section.

2 (4) Proof, to the satisfaction of the HRRB,
3 that the improvements to the property will be consistent with
4 United States Secretary of Interior's Standards for
5 Rehabilitation and will be made in accordance with the
6 guidelines developed by the Department of State.

7 (5) Other information deemed necessary by the
8 Department of State, or requested by the HRRB.

9 (e) Required Covenant. To qualify for an
10 exemption, the property owner must enter into a covenant or
11 agreement with the Board of County Commissioners for the term
12 for which the exemption is granted. The form of the covenant
13 or agreement must be established by the Department of State
14 and must require that the character of the property, and the
15 qualifying improvements to the property, be maintained during
16 the period that the exemption is granted. The covenant or
17 agreement shall be binding on the current property owners,
18 transferees, and their heirs, successors, or assigns.
19 Violation of the covenant or agreement results in the property
20 owner being subject to the payment of the differences between
21 the total amount of taxes which would have been due in March
22 in each of the previous years in which the covenant or
23 agreement was in effect had the property not received the
24 exemption and the total amount of taxes actually paid in those
25 years, plus interest on the difference calculated as provided
26 in Section 212.12(3), Florida Statutes.

27 (f) Review of Application by Historic Resources
28 Review Board (HRRB). The HRRB, or its successor, is
29 designated to review Applications for Exemptions. The HRRB
30 shall review the application and determine whether or not the
31 property and improvements qualify for an exemption pursuant to
32 this ordinance. The HRRB shall notify the applicant in
33 writing of the results of the review and shall make
34 recommendations for the correction of any planned work deemed
35 inconsistent with the standards of this ordinance and the
36 standards established by the Department of State.

1 Such review must be conducted in accordance with rules adopted
2 by the Department of State.

3 (g) Review by HRRB of Request for Review of
4 Completed Work. Upon receipt of a request for Review of
5 Completed Work and all required supporting materials, the HRRB
6 shall conduct a review to determine whether or not the
7 completed improvements are in compliance with the work
8 described in the approved application, subsequent approved
9 amendments, if any, and the Secretary of Interior's Standards
10 for Rehabilitating Historic Buildings. The HRRB and the
11 Planning, Building and Zoning Department reserve the right to
12 inspect the completed work to verify such compliance. Upon
13 completion of the review of a Request for Review of Completed
14 Work, the HRRB shall recommend that the Board of County
15 Commissioners grant or deny the exemption. The recommendation
16 and reasons therefore shall be provided in writing to the
17 applicant and to the Board of County Commissioners before
18 consideration of the application at a meeting of the Board of
19 County Commissioners.

20 (h) Review of Applications in Municipalities. Palm
21 Beach County and a municipality may enter into an interlocal
22 agreement providing for the municipal CLG to perform CLG
23 functions necessary for county historic tax exemption within
24 the municipality in lieu of review and recommendation by the
25 HRRB. A municipality that has entered into an interlocal
26 agreement shall forward to the Board of County Commissioners
27 the municipal application for tax exemption, the
28 recommendation regarding the application of the municipal CLG
29 and the final action regarding the application by the
30 municipality. The municipality shall notify the County of any
31 actions it takes regarding violations of historic covenants or
32 agreements regarding property that has been granted county
33 historic tax exemption.

34 (i) Approval by the Board of County Commissioners.
35 A majority vote of the Board of County Commissioners shall be
36 required to approve a written application for exemption. Such

1 exemption shall take effect on the January 1st following
2 substantial completion of the improvement. The Board of
3 County Commissioners shall include the following in the
4 resolution approving the written application for exemption.

5 (1) The name of the owner and the address of
6 the historic property for which the exemption is granted.

7 (2) The period of time for which the exemption
8 will remain in effect and the expiration date of the
9 exemption.

10 (3) A finding that the historic property meets
11 the requirements of Section 196.1997, Fla. Stat.

12 (j) Notification of Property Appraiser. Upon
13 approval of a resolution approving an historic tax exemption,
14 the Board of County Commissioners shall deliver a copy of the
15 resolution to the Palm Beach County Property Appraiser. The
16 property appraiser shall report to the Board of County
17 Commissioners each year upon the certification of the tax
18 roll, the total exempt value of all property which has been
19 approved to receive historic preservation ad valorem tax
20 exemption for the current fiscal year.

21 (k) Deadline for resolution. The resolution
22 approving an historic tax exemption must be filed with the
23 Palm Beach County Property Appraiser on or before March 1st of
24 the year in which an exemption is requested.

25 Section 3. REPEAL OF LAWS IN CONFLICT

26 All local laws and ordinances applying to the
27 unincorporated area of Palm Beach County in conflict with any
28 provision of this ordinance are hereby repealed.

29 Section 4. SEVERABILITY

30 If any section, paragraph, sentence, clause, phrase,
31 or word of this ordinance is for any reason held by the Court
32 to be unconstitutional, inoperative or void, such holding
33 shall not affect the remainder of this Ordinance.

34 Section 5. INCLUSION IN THE CODE OF LAWS AND
35 ORDINANCES

36 The provisions of this Ordinance shall become and be

1 made a part of the Code of Laws and Ordinances of Palm Beach
2 County, Florida. The sections of the Ordinance may be
3 renumbered or relettered to accomplish such, and the word
4 "ordinance" may be changed to "section", "article", or any
5 other appropriate word.

6 **Section 6. EFFECTIVE DATE**

7 The provisions of this ordinance shall become
8 effective upon filing with the Department of State.

9 **APPROVED AND ADOPTED** by the Board of County
10 Commissioners of Palm Beach County, on the 17 day
11 of October, 1995.

12 **PALM BEACH COUNTY, FLORIDA,**
13 **BY ITS BOARD OF COUNTY COMMISSIONERS**

14 By [Signature]
15 Chair
16

DOROTHY H. WILKEN, CLERK

17 By [Signature]
18 Deputy Clerk

19 **APPROVED AS TO FORM AND**
20 **LEGAL SUFFICIENCY**

21 [Signature]
22 COUNTY ATTORNEY

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on 10/17/95

DATED at West Palm Beach, FL on 11/2/95
DOROTHY H. WILKEN, Clerk
By: [Signature] D.C.

23 **EFFECTIVE DATE:** Filed with the Department of State on
24 the 24th day of October, 1995.